IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6573 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NARMDABEN BHANUBHAI - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR JAGDISH H MEHTA for Petitioner(s) : 1,
MR SATYAM CHHAYA, AGP for Respondent(s) : 1,
None for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 13/03/2007

ORAL JUDGMENT

1. Rule. Mr. Chhaya, learned AGP waives notice of

Rule for respondent Authority. With consent of learned Advocate appearing for both the sides, the matter is finally heard.

2. The petitioner has preferred the petition for challenging the legality and validity of the order dated 15.11.2006 passed by the State Government, whereby the revision has been dismissed and the order of the Collector is confirmed thereof.

3. Upon hearing the learned advocates appearing for both the sides, it appears that there is no dispute on the point that the land allotted by the Deputy Collector is from the land bearing Survey No. 540 of village Sarva, Taluka Botad and the present case is covered by the decision of this Court dated 26.02.2007 in Special Civil Application No. 4670 of 2007 & allied matters wherein, the Court dealt with the situation of two contradictory views of the State Government while exercising revisional jurisdiction. Therefore, the learned Advocate appearing for both the sides submitted that the present petition may also be disposed of on the same line.

4. It may be recorded that as per the decision of this Court dated 26.02.2007 of this Court in Special Civil Application No.4670 of 2007 & allied matters, it was inter alia observed as under:

"3. As per the petitioners, the respondent authority handed over the possession of the land by drawing panchnama and thereafter the District Collector exercised the revisional power and ultimately as per the order dated 13.7.2000 passed by the District Collector the allotment made is cancelled in respect of all allottees, who were beneficiaries as per the order of the Dy. Collector. It appears that various revisions came to be preferred before the State Government by the persons concerned, who were allotted land, including the revisions preferred by the petitioners as well as the revisions preferred by one Kumbar Ranchhod Raiyabhai and Talsibhai Muljibhai being Revision Applications No.63 of 2000 and No.77 of 2000, whereas the revision of the petitioners were Nos.53 of 2000, 65 of 2000, 62 of 2000 and 57 of 2000. However, the State Government while exercising the revisional jurisdiction in the matter of revision No.63 of 2000 preferred by Kumbar Ranchhod Raiyabhai and the Revision Application No.77 of 2000 preferred by Talsi Muljibhai has partly allowed the revisions and by quashing the order of the Collector has directed for remand of the matter to the Collector for reconsideration in light of the observations made by the State Government in the order, whereas in the aforesaid revisions preferred by the petitioners, the decisions are taken by the State Government to dismiss the revisions and the order of the Collector is confirmed. On the aforesaid aspects, there is no dispute even as per the submissions made by the learned AGP during the course of the hearing.

4. Under the above circumstances, if the State Government while exercising the revisions jurisdiction has taken two self-contradictory stands in respect to the very exercise of power by the District Collector

in revisions under Section 211 of the Code, arising against the order of the Dy. Collector, whereby the land was granted to the concerned persons, including the petitioners herein, such a view taken by the State Government, when the fact situations are substantially same, can be said as ex facie error of jurisdiction.

5. The learned AGP appearing for the State authorities is not in a position to support the contradictory stands taken by the State Government while dismissing the revision applications of the petitioners concerned as against the view taken in the other revisions, whereby the matter is remanded.

6. Under the above circumstances, the impugned order passed by the State Government for dismissing the revision application, instead of remanding the matter, deserves to be quashed. It appears that in normal course when the order of the quasi judicial authority is quashed, the matter may be required to be remanded to the very authority for reconsideration in accordance with law in light of the observations made by this Court. However, it appears that when the District Collector is seized with the matter in pursuance of the order passed by the State Government in revision applications No.63 and 77 of 2000 preferred by Kumbar Ranchhod Raiyabhai and Talsibhai Muljibhai, no useful purpose would be served in remanding the matter to the State Government for deciding the revisions afresh and, therefore, it would be just and proper to direct the District Collector to reconsider the matter afresh in light of the observations made by the State Government in the proceedings of revision application No.63 of 2000 and No.77 of 2000.

Same is the fact situation in the present case

and on the said aspects, there is no dispute.

5. Under the above circumstances, similar direction can be given by this Court in the present case. In the result, the impugned order passed by the District Collector and its confirmation thereof by the State Government are set aside with the direction to the District Collector to decide the matter in light of the observations made by the State Government in Revision Application No. 63 of 2000 and 77 of 2000 decided on 03.11.2006 and 04.11.2006. It is made clear that the rights and contentions of both the sides shall remain open as and when the Collector decides the matter afresh accordingly.

6. The petition is partly allowed to the aforesaid extent. Rule made absolute accordingly with no order as to costs.

(JAYANT PATEL, J.)

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